**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**
**ORIGINAL JURISDICTION**

**On this 28th day of May 2004**

Criminal Bail Application No. 223/2004

**Order on the bail application of the accused.**

**Criminal Side**

Major Singh S/o Darshan Singh
R/o village Gangi Khassi Bag
Thana Khatima
District Udham Singh Nagar --Applicant.

Vs.

State of Uttaranchal ---Respondent.

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Arising out of crime No. 741/2003
U/Ss 302/307 I.P.C. read with section 3(2)(5) S.C.S.T. Act
P.S. Khatima
District Udham Singh Nagar.

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**By the Court**

**Hon'ble Irshad Hussain J.**

Heard Sri P.S. Adhikari learned counsel for the applicant and Sri G.S. Sandhu learned A.G.A. and perused the record.

The learned counsel for the applicant-accused referred to the allegation of the F.I.R. vis-à-vis the post mortem report to bring home his point of view that the fire arm injuries with blackening and scorching could not have been sustained if the assailants were to fire from a short distance as is made out from the version of the F.I.R. No distance from which the fire arm was used has been mentioned in the F.I.R. Even otherwise that fact has to be considered when the evidence is adduced and at this stage it has to be seen whether the medical evidence corroborates the version of the F.I.R. or not and whether the medical evidence rule out absolutely the possibility of sustaining the injuries which proved fatal for the victim on being fired at by the nominated assailant in the F.I.R. Having considered the facts in this light I am not impressed from the argument of the learned

counsel that the fire arm was used from a short distance from where the blackening or scorching could not have been found on the wound.

Considering the fact that the applicant has been assigned the role of assailant and in view of this, it is not a fit case for bail. The bail application is rejected.

**(Irshad Hussain J.)**

Dated 28.5.2004

ISB